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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
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15 MORTEZA N. BAKHTIARI, } Case No. SACV 10-717-AG (OP)
16 Petitioner, } ORDER DENYING ISSUANCE OF
17 v. } CERTIFICATE OF APPEALABILITY
18 KELLY HARRINGTON, }
19 Warden, }
20 Respondent. }
21

22 On May 12, 2011, the Court issued its Amended Report and
23 Recommendation of United States Magistrate Judge, recommending the dismissal
24 with prejudice of the current Petition for Writ of Habeas Corpus by a Person in
25 State Custody pursuant to 28 U.S.C. § 2254. On June 3, 2011, Petitioner filed his
26 Objections to the Report and Recommendation.

27 On December 1, 2009, Rule 11(a) the Rules Governing Section 2254 Cases
28 in United States District Courts, 28 U.S.C. foll. § 2254, was amended to provide in
pertinent part that: “[t]he district court must issue or deny a certificate of
appealability when it enters a final order adverse to the applicant.” Under 28
U.S.C. § 2253(c)(2), a Certificate of Appealability (“COA”) may issue “only if the
applicant has made a substantial showing of the denial of a constitutional right.”
The Supreme Court has held that, to obtain a COA under § 2253(c), a habeas

1 prisoner must show that “reasonable jurists could debate whether (or, for that
2 matter, agree that) the petition should have been resolved in a different manner or
3 that the issues presented were adequate to deserve encouragement to proceed
4 further.” Slack v. McDaniel, 529 U.S. 473, 483-84, 120 S. Ct. 1595, 146 L. Ed. 2d
5 542 (2000) (internal quotation marks omitted); see also Miller-El v. Cockrell, 537
6 U.S. 322, 336, 123 S. Ct. 1029, 1039, 154 L. Ed. 2d 931 (2003).

7 After review of Petitioner’s contentions herein and his Objections to the
8 Report and Recommendation, this Court finds that Petitioner has not made the
9 requisite showing to warrant the issuance of a COA.

10 Accordingly, the Court denies the issuance of a COA.

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12 DATED: 6/30/11

13 HONORABLE ANDREW J. GUILFORD
United States District Judge

14 Presented by:

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16 HONORABLE OSWALD PARADA
17 United States Magistrate Judge

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